

PLEASE NOTE THAT A FORMAL APPLICATION FOR A HABITAT LOSS PERMIT HAS NOT BEEN FILED AT THIS TIME. THE FOLLOWING IS A DRAFT FORM OF DECISION FOR A HABITAT LOSS PERMIT SHOWING THE FORMAT AND POSSIBLE CONDITIONS FOR A FUTURE HABITAT LOSS PERMIT. BECAUSE A FORMAL APPLICATION HAS NOT BEEN FILED, CERTAIN DATES, FINDINGS AND OTHER INFORMATION IS ABSENT FROM THE DRAFT FORM OF DECISION, THIS INFORMATION WILL BE INCLUDED IN THE FINAL FORM OF DECISION.

DATE (to be determined)

805 Properties
Attention: Gene Driscoll
7338 Turnford Drive
San Diego, CA 92119

DRAFT DECISION OF THE DIRECTOR
Habitat Loss Permit

APPLICATION NUMBER: HLP XX-XXX

ASSOCIATED PERMIT(S): TM 5344, SP03-005, GPA 03-007, R 07-002, STP 10-007, ER 03-09-028

NAME OF APPLICANT: 805 Properties, Gene Driscoll

DESCRIPTION/LOCATION OF LOSS:

The proposed Habitat Loss Permit will allow removal of 26.8 acres of coastal sage scrub habitat as shown on the attached Habitat Loss Exhibit for a major subdivision of 682.6-acres into 125 single-family residential lots on two to five acres and an open space preserve of approximately 457-acres. The project involves a General Plan Amendment, Specific Plan, Tentative Map, Site Plan and Rezone. The project site is located approximately ¼ mile northwest of the intersection of SR-67 and Highland Valley Road within the Ramona Community Plan Area within the unincorporated area of San Diego County as indicated on the attached USGS map.

The site is vacant with the exception of a number of roads, wells and a windmill; it has been used for dry farming for decades. Surrounding land uses include agriculture, rural single-family residences and open space lands; with the Ramona Airport to the north and the Hardy Ranch owned by the County Department of Parks and Recreation to the west, Ramona Town Center and the Santa Maria Waste Water Treatment Plant to the

east, and Highway 67 to the south. The site is a part of the Ramona Grasslands and includes portions of the Santa Maria and Etcheverry Creeks.

Biological resources on the project site were evaluated in a Biological Resources Survey Report prepared by Ecological Ventures California, Inc. and HDR Engineering, Inc. (August 2010). Open space easements have been incorporated to include portions of the Ramona Grasslands, drainage and wetland areas, vernal pools, ridgelines, oak woodlands and other natural features. A portion of the project's required land for mitigation is provided within the designated open space of Area A (137 acres) with the residential development (221.7 acres); Areas B and C (310.9 acres) would be for mitigation and preserved for the benefit of the Ramona Grasslands Preserve and be managed in perpetuity through a Resource Management Plan.

With offsite impacts for sewer, roads, and trails (15.2 acres), the development impact would total of 236.9 acres, with 26.8 acres of Diegan Coastal Sage Scrub of intermediate potential value for long-term conservation being impacted and being mitigated at a 2:1 ratio. State and federal jurisdictional waters and wetlands impacts would total of 0.13 acres of federal, 1.18 acres of state jurisdictional waters and wetlands and these would be mitigated onsite through a Revegetation Plan.

Multiple focused surveys were conducted for federal and state listed species during 2000 through 2004 and in 2006, and again in 2010. Focused surveys for California gnatcatcher (*Poliophtila californica californica*), arroyo toad (*Bufo microscaphus californicus*), Quino checkerspot butterfly (*Euphydryas editha quino*; year 2000 only due to absence of habitat), and Stephens' kangaroo rat (*Dipodomys stephensi*) resulted in negative findings. A series of vernal pools is known to exist in Area C called the "vernal pool preserve." One of these pools is documented to include the federally threatened San Diego navarretia (*Navarretia fossalis*). There are two "satellite pools," one each in Area B and Area A, that are also being preserved. All the pools have had evidence of San Diego Fairy Shrimp (*Branchinecta sandiegoensis*) at one time or another. There are 24 acres of southern tarplant (*Centromedia australis*) that occur on the Cumming Ranch property within low-lying areas, drainages, drainages in agricultural, cismontane alkali marsh, vernal pools, mulefat scrub, non-native grassland, and agriculture throughout Areas A, B, and C and offsite at the Hardy Ranch.

County of San Diego sensitive animal species were identified during the surveys including the following seven County of San Diego sensitive herpetological species with in Areas A and B: Western Spadefoot Toad (*Scaphiopus hammondi*) (also considered a CDFG Species of Special Concern), San Diego Horned Lizard (*Phrynosoma coronatum blainvillei*) (also considered a CDFG State Protected Species and Species of Special Concern), granite spiny lizard (*Sceloporus orcutti*), granite night lizard (*Xantusia henshawi*) (also considered a CDFG Species of Special Concern), coastal California whiptail (*Cnemidophorus tigris mundus*) (also considered a CDFG Species of Special Concern), orange-throated whiptail (*Cnemidophorus hyperythrus*) (also considered a CDFG State Protected Species and Species of Special Concern), and two-striped garter snake (*Thamnophis hammondi*) (also considered a CDFG Species of Special

Concern). Five County of San Diego sensitive mammals and/or their sign were identified onsite including Mountain Lion (*Felis concolor*) (also a CDFG Specially Protected Animal), American Badger (*Taxidea taxus*), San Diego Desert Woodrat (*Neotoma lepida intermedia*) (also a CDFG Species of Special Concern), San Diego Black-tailed Jackrabbit (*Lepus californicus bennettii*) (also a CDFG Species of Special Concern), and Southern Mule Deer (*Odocoileus hemionus fuliginatus*).

County sensitive raptors observed onsite include turkey vulture (*Cathartes aura*); white-tailed kite (*Elanus caeruleus*) (also CDFG Fully Protected Species and Federal Migratory Bird of Nongame Management Concern); northern harrier (*Circus cyaneus*); golden eagle (*Aquila chrysaetos*) (also CDFG Fully Protected Species and Species of Special Concern); Cooper's hawk (*Accipiter cooperi*) (also CDFG Species of Special Concern); red-shouldered hawk (*Buteo lineatus*); and ferruginous hawk (*Buteo regalis*) (also CDFG Species of Special Concern and Federal Migratory Bird of Nongame Management Concern). In addition to the above listed raptors, the loggerhead shrike (*Lanius ludovicianus*) (County sensitive avian species, CDFG Species of Special Concern, and Federal Special Concern Species) was also observed onsite. Additional raptor species observed onsite include great horned owl (*Bubo virginianus*), zone-tailed Hawk (*Buteo albonotatus*), red-tail hawk (*Buteo jamaicensis*), rough-legged hawk (*Buteo lagopus*), American kestrel (*Falco sparverius*), and Barn Owl (*Tyto alba*). Additional non-raptor species of note observed onsite included Canada goose (*Branta canadensis*). Burrowing owl is also expected onsite and in the vicinity though none were observed during the surveys. Suitable burrowing and foraging habitat occurs within Areas A, B, and C.

In addition to onsite preservation and management in perpetuity and revegetation of wetlands, the project's biological mitigation includes: dedication of a 100-foot wide limited building zone easement adjacent to the open space, permanent open space signage at the open space boundary adjacent to proposed development, fencing in areas where large animals are kept, and breeding season avoidance during grading in accordance with the Migratory Bird Treaty Act (MBTA).

With the implementation of the above mitigation, all impacts associated with the development of the Cumming Ranch property have been mitigated to a level below significance. The proposed project is in conformance with all standards and guidelines outlined in the NCCP Process Guidelines.

DECISION:

The Director of Planning and Land Use has approved your application for a HABITAT LOSS PERMIT. This Habitat Loss Permit approval does not become final until both the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) concur with the Director's approval, by either of the following:

1. Concurrence implied by allowing a 30-day period, initiated by their receipt of this decision, to lapse without presenting written notification to the County that the

decision is inconsistent with the Southern California Coastal Sage Scrub (CSS) Natural Community Conservation Planning (NCCP) Process Guidelines (CDFG, November 1993) or any approved subregional mitigation guidelines; or

2. Granting concurrence through written notification to the County prior to the conclusion of the 30-day period, initiated by their receipt of this decision, that the project is consistent with the Southern California CSS NCCP Process Guidelines or any approved subregional mitigation guidelines.

Pending the issuance of an associated Grading Permit, Clearing Permit or Improvement Plan from the County of San Diego, this Habitat Loss Permit allows for the loss of the above-described coastal sage scrub habitat (see attached Habitat Loss Exhibit) and incidental take of the California gnatcatcher for a period of one calendar year commencing the day concurrence is given by both the USFWS and CDFG. If the loss of habitat, as authorized by this Habitat Loss Permit, has not occurred within this one-year period, this Habitat Loss Permit and the authorization for the loss of coastal sage scrub habitat expires.

This Habitat Loss Permit cannot be relied upon for the clearing, grading or removal of any vegetation until a valid Grading Permit, Clearing Permit or Improvement Plan has been issued from the County of San Diego authorizing such vegetation removal. Furthermore, use and reliance upon this Habitat Loss Permit cannot occur until all of the requirements as specified within the "Conditions of Approval" section of this permit have been satisfied.

CONDITIONS OF APPROVAL:

The following conditions are being placed on TM 5344. For the final Habitat Loss Permit, the list of conditions will be modified to require satisfaction of all conditions prior to use and reliance on the HLP.

- A. Prior to use and reliance on this Habitat Loss Permit, the following conditions shall be met:
 1. Obtain approval from the County of San Diego of a Grading Permit, Clearing Permit, or Improvement Plan that authorizes the clearing and/or grading of the area addressed by this Habitat Loss Permit.
 2. **BIOLOGICAL EASEMENT: [DPLU, PCC] [DPR TC, GPM] [DGS, RP] [MA, GP, IP] [DPLU, FEE X 2]. Intent:** In order to protect sensitive biological resources, pursuant to the California Environmental Quality Act (CEQA), a biological open space easement shall be granted. **Description of Requirement:** Grant to the County of San Diego, as shown on the Tentative Map TM 5344 dated _____. This easement is for the protection of biological resources and prohibits all of the following on any portion of the land subject to said easement: grading; excavation;

placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. Granting of this open space authorizes the County and its agents to periodically access the land to perform management and monitoring activities for the purposes of species and habitat conservation. The only exception(s) to this prohibition are:

- a. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard. While clearing for fire management is not anticipated with the creation of this easement, such clearing may be deemed necessary in the future for the safety of lives and property. All fire clearing shall be pursuant to the Uniform Fire Code and the Memorandum of Understanding dated February 26, 1997, between the wildlife agencies and the fire districts and any subsequent amendments thereto.
- b. Activities conducted pursuant to a revegetation or habitat management plan approved by the Director of Planning and Land Use, Parks and Recreation or the Director of Public Works.
- c. Construction, use, and maintenance of trails in the location shown on Tentative Map TM 5344 dated _____.

Documentation: The applicant shall prepare the draft plats and legal descriptions of the easements, then submit them for preparation and recordation with the [DGS, RP], and pay all applicable fees associated with preparation of the documents. Upon Recordation of the easements, the applicant shall provide copies of the recorded easement documents to [DPLU, PCC] for approval. **Timing:** Prior to the approval of the map and prior to the approval of any plan and issuance of any permit, the easements shall be executed and recorded. **Monitoring:** The [DGS, RP] shall prepare and approve the easement documents and send them to [DPLU, PCC] and [DPR TC, GPM] for preapproval. The [DPLU, PCC] shall preapprove the language and estimated location of the easements before they are released to the applicant for signature and subsequent recordation. Upon Recordation of the easements [DGS, RP] shall forward a copy of the recorded documents to [DPLU, PCC] for satisfaction of the condition.

3. **LBZ EASEMENT: [DPLU, PCC] [DGS, RP][MA, GP, IP] [DPLU, FEEX 2]**
Intent: In order to protect sensitive biological resources, pursuant to the California Environmental Quality Act (CEQA), a Limited Building Zone Easement shall be granted to limit the need to clear or modify vegetation for fire protection purposes within an adjacent biological resource area.

Description of Requirement: Grant to the County of San Diego a Limited Building Zone Easement as shown on the Tentative Map TM 5344 dated _____. The purpose of this easement is to limit the need to clear or modify vegetation for fire protection purposes within the adjacent biological open space easement and prohibit the construction or placement of any structure designed or intended for occupancy by humans or animals. The only exceptions to this prohibition are:

- a. Decking, fences, and similar facilities.
- b. Sheds, gazebos, and detached garages, less than 250 square feet in total floor area, that are designed, constructed and placed so that they do not require clearing or fuel modification within the biological open space easement, beyond the clearing/fuel modification required for the primary structures on the property.

Documentation: The applicant shall prepare the draft plats and legal descriptions of the easements, then submit them for preparation and recordation with the [DGS, RP], and pay all applicable fees associated with preparation of the documents. Upon Recordation of the easements, the applicant shall provide copies of the recorded easement documents to [DPLU, PCC] for approval. **Timing:** Prior to the approval of the map and prior to the approval of any plan and issuance of any permit, the easements shall be recorded. **Monitoring:** The [DGS, RP] shall prepare and approve the easement documents and send them to [DPLU, PCC] for pre approval. The [DPLU, PCC] shall preapprove the language and estimated location of the easements before they are released to the applicant for signature and subsequent recordation. Upon Recordation of the easements [DGS, RP] shall forward a copy of the recorded documents to [DPLU, PCC] for satisfaction of the condition.

4. **OPEN SPACE SIGNAGE: [DPLU, PCC] [MA, GP, IP] [DPLU, FEE].**

Intent: In order to protect the proposed open space easement from entry, informational signs shall be installed. **Description of Requirement:** Open space signs shall be placed along the biological open space boundary as indicated on the Tentative Map TM 5344 dated _____. The signs must be corrosion resistant, a minimum of 6" x 9" in size, on posts not less than three (3) feet in height from the ground surface, and must state the following:

Sensitive Environmental Resources

Area Restricted by Easement

Entry without express written permission from the County of San Diego is prohibited. To report a violation or for more information about easement restrictions and exceptions contact the County of San Diego,

Department of Planning and Land Use

Reference: TM 5344, ER 03-09-028

Documentation: The applicant shall install the signs as indicated above and provide site photos and a statement from a California Registered Engineer or licensed surveyor that the open space signs have been installed at the boundary of the open space easement(s). **Timing:** Prior to the approval of the map and prior to the approval of any plan and issuance of any permit, the open space signs shall be installed. **Monitoring:** The [DPLU, PCC] shall review the photos and statement for compliance with this condition.

5. **OPEN SPACE FENCING: [DPLU, PCC] [MA, GP, IP] [DPLU, FEE].**

Intent: In order to protect the proposed open space easement from entry, and disturbance, permanent fencing must be installed. **Description of Requirement:** Open space fencing shall be placed along the biological open space boundary as indicated on the Tentative Map TM 5344 dated _____. The fencing design shall consist of split rail fencing no less than 4-feet in height. **Documentation:** The applicant shall install the fencing as indicated above and provide site photos and a statement from a California Registered Engineer, or licensed surveyor that the open space fencing has been installed. **Timing** Prior to the approval of the map and prior to the approval of any plan and issuance of any permit, the fencing or walls shall be placed. **Monitoring:** The [DPLU, PCC] shall review the photos and statement for compliance with this condition.

6. **WETLAND PERMITS: [DPLU, PCC] [GP, CP, MA] [DPLU, FEE X2]**

Intent: In order to comply with the State and Federal Regulations for wetlands, the following agency permits, or verification that they are not required shall be obtained. **Description of Requirement:** The following permit and agreement shall be obtained, or provide evidence from the respective resource agency satisfactory to the Director of Planning and Land Use that such an agreement or permit is not required:

- a. A Clean Water Act, Section 401/404 permit issued by the California Regional Water Quality Control Board and the U.S. Army Corps of Engineers for all project related disturbances of waters of the U.S. and/or associated wetlands.
- b. A Section 1602 Streambed Alteration Agreement issued by the California Department of Fish and Game for all project related disturbances of any streambed.

Documentation: The applicant shall consult each agency to determine if a permit or agreement is required. Upon completion of the agency review of this project, the applicant shall provide a copy of the permit(s)/agreement(s), or evidence from each agency that such an agreement or permit is not required to the [DPLU, PCC] for compliance.

Timing Prior to the approval of the map and prior to the approval of any plan and issuance of any permit, the permits shall be obtained.

Monitoring: The [DPLU, PCC] shall review the permits/agreement for compliance with this condition. Copies of these permits should be transmitted to the [DPW, ESU], for implementation on the grading plans.

- B. Prior to use and reliance on this permit the following conditions shall be placed on the face of all future grading permits or improvement plans:

1. **"TEMPORARY FENCING: [DPLU, PCC] [DPW, PDCI] [PC] [DPLU, FEE]. Intent:** In order to prevent inadvertent disturbance to open space easements, temporary construction fencing shall be installed. **Description of Requirement:** Prior to the commencement of any grading and or clearing in association with this grading plan, temporary orange construction fencing shall be placed to protect from inadvertent disturbance of all open space easements that do not allow grading, brushing or clearing. Temporary fencing is also required in all locations of the project where proposed grading or clearing is within 100 feet of an open space easement boundary.
 - a. The placement of such fencing shall be approved by the DPLU, Permit Compliance Section. Upon approval, the fencing shall remain in place until the conclusion of grading activities after which the fencing shall be removed.

Documentation: The applicant shall provide evidence that the fencing has been installed and have a California licensed surveyor certify that the fencing is located on the boundary of the open space easement(s). The applicant shall submit photos of the fencing along with the certification letter to the [DPLU, PCC] for approval. **Timing:** Prior to Preconstruction Conference, and prior to any clearing, grubbing, trenching, grading, or any land disturbances the fencing shall be installed, and shall remain for the duration of the grading and clearing. **Monitoring:** The [DPLU, PCC] shall either attend the preconstruction conference and approve the installation of the temporary fencing, or review the certification and pictures provided by the applicant."

2. **"RESOURCE AVOIDANCE: [DPLU, PCC] [DPW, PDCI] DPLU, FEE X2]. Intent:** In order to avoid impacts to raptors and migratory birds, which are sensitive biological resources pursuant to the Migratory Bird Treaty Act (MBTA), a Resource Avoidance Area (RAA), shall be implemented on all plans. **Description of Requirement:** There shall be no brushing, clearing and/or grading such that none will be allowed during the breeding season of raptors and migratory birds within Resource Avoidance Area (RAA) "A" as indicated on these plans. The breeding season is defined as occurring between February 1st and August 31st. The Director of Planning and Land

Use [DPLU, PCC] may waive this condition, through written concurrence from the US Fish and Wildlife Service and the California Department of Fish and Game, provided that no raptors or migratory birds are present in the vicinity of the brushing, clearing or grading. **Documentation:** The applicant shall provide a letter of agreement with this condition; alternatively, the applicant may submit a written request for waiver of this condition. Although, No Grading shall occur within the RAA until concurrence is received from the County and the Wildlife Agencies. **Timing:** Prior to preconstruction conference and prior to any clearing, grubbing, trenching, grading, or any land disturbances and throughout the duration of the grading and construction, compliance with this condition is mandatory unless the requirement is waived by the County upon receipt of concurrence from the Wildlife Agencies. **Monitoring:** The [DPW, PDCI] shall not allow any grading in the RAA during the specified dates, unless a concurrence from the [DPLU, PCC] is received. The [DPLU, PCC] shall review the concurrence letter."

3. **OPEN SPACE SIGNAGE & FENCING: [DPLU, PCC] [DPW, PDCI] [FG, UO] [DPLU, FEE]. Intent:** In order to comply with Conditions 18 and 19 pursuant to the adopted Mitigation Monitoring and Reporting Program (MMRP) for TM 5344, the fencing and signage shall be installed. **Description of Requirement:** The permanent fences and open space signs shall be placed along the open space boundary as shown on these plans and the Approved Conceptual Grading and Development Plan for TM 5344.
- a. Evidence shall be site photos and a statement from a California Registered Engineer, or licensed surveyor that the permanent walls or fences, and open space signs have been installed.
 - b. The signs must be corrosion resistant, a minimum of 6" x 9" in size, on posts not less than three (3) feet in height from the ground surface, and must state the following:

Sensitive Environmental Resources

Area Restricted by Easement

Entry without express written permission from the County of San Diego is prohibited. To report a violation or for more information about easement restrictions and exceptions contact the County of San Diego,
Department of Planning and Land Use
Reference: TM 5344, ER 03-09-028

Documentation: The applicant shall install the fencing and signage and provide the documentation photos and certification statement to the [DPLU, PCC]. **Timing:** Prior to the occupancy of any structure and prior to Final Grading Release (Grading Ordinance Sec. 87.421.a.3) the

fencing and signage shall be installed. **Monitoring:** The [DPLU, PCC] shall review the photos and statement for compliance with this condition.

4. **“EASEMENT AVOIDANCE: [DPLU, PCC] [DPW, PDCI] [DPLU, FEE].**
Intent: In order to protect sensitive resources, pursuant to County Grading Ordinance Section 87.112 the open space easements shall be avoided. **Description of Requirement:** The easement indicated on this plan is for the protection of sensitive environmental resources (cultural and biological) and prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. It is unlawful to grade or clear within an open space easement, any disturbance shall constitute a violation of the County Grading Ordinance Section 87.112 and will result in enforcement action and restoration. The only exception(s) to this prohibition are:
- a. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard. While clearing for fire management is not anticipated with the creation of this easement, such clearing may be deemed necessary in the future for the safety of lives and property. All fire clearing shall be pursuant to the Uniform Fire Code and the Memorandum of Understanding dated February 26, 1997, between the wildlife agencies and the fire districts and any subsequent amendments thereto.
 - b. Activities conducted pursuant to a revegetation or habitat management plan approved by the Director of Planning and Land Use, Parks and Recreation or the Director of Public Works.
 - c. Scientific investigations conducted pursuant to a research design prepared by an archeologist certified by the Register of Professional Archaeologists and approved by the Director of Planning and Land Use.
 - d. Implementation of a site-capping plan approved by the Director of Planning and Land Use.
 - e. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard.
 - f. Activities required to be conducted pursuant to a revegetation, habitat management, or landscaping plan approved by the Director of Planning and Land Use.

- g. Vegetation removal or application of chemicals for vector control purposes where expressly required by written order of the Department of Environmental Health of the County of San Diego, in a location and manner approved in writing by the Director of Planning and Land Use of the County of San Diego.

Documentation: The applicant shall provide a letter statement to the [DPLU, PCC] stating that all Sensitive Resource Easements were avoided during the grading construction, and that no impacts or encroachment into the open space occurred. **Timing:** Prior to Final Grading Release the letter verifying the easements were not disturbed shall be submitted. **Monitoring:** The [DPW, PDCI] shall not allow any grading, clearing or encroachment into the open space easement."

ENVIRONMENTAL FINDINGS:

A. CEQA Findings

TO BE PROVIDED

B. FINDINGS MADE IN SUPPORT OF THE ISSUANCE OF THE HABITAT LOSS PERMIT:

The following findings are made based upon all of the documents contained in the record for this project and pursuant to Section 86.104 of County of San Diego Ordinance No. 8365 (N.S.) and Section 4.2.g of the CSS NCCP Process Guidelines (CDFG, November 1993):

Finding 1.a: The habitat loss does not exceed the five percent guideline.

The proposed project will impact 26.8 acres of coastal sage scrub and no individuals or pairs of California gnatcatchers. Approved coastal sage scrub losses as of the date of November 4, 2010 and including this approval, for the entire unincorporated County, outside the boundaries of the Multiple Species Conservation Program (MSCP), are presented in the following table:

Unincorporated Area Coastal Sage Scrub Cumulative Losses

Total loss allowed under five percent guideline:	2953.30 acres
Cumulative loss of Coastal sage scrub to date:	1164.00 acres
Net loss due to this project:	26.80 acres
Total cumulative loss:	1190.80 acres
Remaining loss under five percent guideline:	1762.50 acres

Finding 1.b: The habitat loss will not preclude connectivity between areas of high habitat values.

The proposed project site contains 88.6 acres of coastal sage scrub (Diegan coastal sage scrub, inland form) which is primarily associated with rock outcrops in between dry farmed areas. The 682.6 acre site is mapped as mostly very high and high value on the County Habitat Evaluation Model, despite its long history as a large farming operation. However, the project will not preclude connectivity between areas of high habitat values because the development would be sited in the southern portion of the site abutting existing rural residential development and Highway 67. The higher value lands adjoining the Santa Maria Creek and preserved areas of the Ramona Grasslands have been avoided and proposed as open space.

Although the project will directly impact 26.8 acres (30%) of the coastal sage scrub onsite, the project will preserve the remaining 61.8 acres of coastal sage scrub in perpetuity (9 acres is not available as mitigation because it is buffer for RPO wetlands). The onsite preserve is adjacent to a large block of habitat in the north and northwestern areas that form the Ramona Grasslands along the Santa Maria Creek and a linkage leading southward through large lot agriculture towards the Barnet Ranch.

Finding 1.c: The habitat loss will not preclude or prevent the preparation of the subregional NCCP.

The proposal to develop the Cumming Ranch property into 125 residential lots will directly impact a total of 233.3 acres of native and naturalized habitat lands including coastal sage scrub, field/pasture, oak woodland, chamise chaparral, alkali marsh/wetlands, eucalyptus woodland, and disturbed/developed lands. The project also proposed preservation of 447.9 acres, including all of the vernal pools and watersheds. The project proposes development on the most disturbed habitats, primarily those that have been farmed for decades, and maintains the major movement corridors that form the Ramona Grasslands Preserve, including the Santa Maria Creek, Etcheverry Creek, and major hilltops and ridgelines. The loss of these historically farmed areas will not preclude preparation of the subregional plan. Preservation of higher quality habitats onsite will contribute to the preparation of a preserve system and subregional plan.

Finding 1.d: The habitat loss has been minimized and mitigated to the maximum extent practicable in accordance with Section 4.3 of the NCCP Process Guidelines.

The proposed development of the Cumming Ranch property will result in the loss of 233.3 acres of native and naturalized habitat. This habitat loss will be mitigated through preservation of 447.9 acres of onsite habitat with approximately

50 acres not being available as mitigation land because it is considered buffer for RPO wetlands or too isolated to be mitigation land. All but 0.9 acres of specific habitat types are mitigated onsite according to the County Report Format and Content Requirements for Biological Resources. The coastal sage scrub onsite is considered to have "intermediate potential for long-term conservation" pursuant to the NCCP Logic Flow Chart and a 2:1 mitigation ratio is appropriate.

The most disturbed habitat areas on the site will be impacted by the project, while the higher quality habitat with connectivity to adjacent vacant lands will be preserved. The project will preserve the highest quality habitat onsite, an area dominated by the Santa Maria Creek floodplain and grasslands. A Resource Management Plan with permanent fencing as needed and open space signage as well as a 100-foot limited building zone easement adjacent to the open space will prevent indirect impacts to the onsite preserved habitats.

Therefore, potential impacts to habitat have been minimized and mitigated to the maximum extent practicable in accordance with Section 4.3 the NCCP Process Guidelines.

Finding 2 The habitat loss will not appreciably reduce the likelihood of survival and recovery of listed species in the wild.

Two listed species, spreading navarretia and San Diego fairy shrimp, were observed onsite in the preserved areas. A protocol California gnatcatcher survey was performed in June 2010 with negative results. A protocol arroyo toad survey was conducted in June 2010 with negative results. Habitat assessments for Quino checkerspot and Stephens' kangaroo rat indicated that negative surveys did not need to be redone.

The sensitive raptor species onsite are a significant resource and mitigation is proposed onsite at a 1:1 ratio. The preserve design contributes to the regional conservation of the Ramona Grasslands and the preservation of the most diverse areas of the site including the vernal pool and creek resources. The proposed open space is several hundred acres and joins thousands of acres of preserve known as the Ramona Grasslands. After project implementation, all the sensitive species known to occur will be likely to continue to use habitat within the onsite biological open space easement. Raptors will continue to forage over the site.

Therefore, the proposed development of the Cumming Ranch property will not appreciably reduce the likelihood for survival and recovery of listed species in the wild.

Finding 3: The habitat loss is incidental to otherwise lawful activities.

The project will require grading plans and improvement plans for road improvements and site preparation for residential development. The issuance of a Habitat Loss Permit by the County of San Diego, with the concurrence of the Department of Fish and Game and U.S. Fish and Wildlife Service and approval by the County of San Diego of a Grading Permit, Clearing Permit, or Improvement Plan is required prior to the clearing of any coastal sage scrub supported on the project site. No state or federal permits other than those mentioned above associated with streambeds and wetlands are identified as being required at this time. Construction and/or land use modification will not commence until all appropriate permits have been issued. The project has been found to be in conformance with Section 86.104 of the San Diego County Code. As such, the anticipated loss will be incidental to "otherwise lawful activities".

NCCP FLOWCHART

1. Is natural vegetation present? **Yes.**
2. Is Coastal sage scrub present? **Yes.**
3. Is Coastal sage scrub the most dense in the subregion? **No.**
4. Is the land close to or within high value district. **Yes.**
5. Is the land located in a corridor between higher value districts. **No.**
6. Does the land support high density of target species? **Yes.**

Based on the NCCP Logic Flow Chart, the quality of habitat supported on the Neumann project is defined as being "Intermediate Value."

MITIGATION MONITORING AND REPORTING PROGRAM:

The following shall be the Mitigation Monitoring or Reporting Program for this Habitat Loss Permit:

Public Resources Code Section 21081.6 requires the County to adopt a mitigation reporting or monitoring program for any project that is approved on the basis of a mitigated Negative Declaration or an Environmental Impact Report for which findings are required under Section 21081(a)(1). The program must be adopted for the changes to a project which the County has adopted, or made a condition of project approval, in order to mitigate or avoid significant effects on the environment. The program must be designed to ensure compliance during project implementation.

The mitigation monitoring program is comprised of all the environmental mitigation measures adopted for the project. The full requirements of the program (such as what is being monitored, method and frequency, who is responsible, and required time frames) are found within the individual project conditions. These conditions are

referenced below by category under the mechanism which will be used to ensure compliance during project implementation.

- Subsequent Project Permits

Compliance with the following conditions is assured because specified subsequent permits or approvals required for this project will not be approved until the conditions have been satisfied:

A1 through A6, B1 through B4.

NOTICE: The issuance of this permit by the County of San Diego does not authorize the applicant for said permit to violate any federal, state, or county laws, ordinances, regulations, or policies, including but not limited to, the federal Endangered Species Act and any amendments thereto.

NOTIFICATION TO APPLICANT: Because your project has an effect on native biological resources, State law requires the payment of a \$2,010.25 fee to the California Department of Fish and Game for their review of the Mitigated Negative Declaration (Fish and Game Code §711.4) and a \$50 administrative fee to the County (\$2,060.25 total). If you made this payment at the time of public review of the environmental document pursuant to Administrative Code Section 362, Article XX, effective August 27, 1992, you have met this obligation. If the fee has not been paid, to comply with State law, the applicant should remit to the County Department of Planning and Land Use, within two (2) working days of the effective date of this approval (the "effective date" being the end of the appeal period, if applicable). **The payment must be by certified check or cashier's check payable to the "County of San Diego" and can be submitted to the cashier at the DPLU office or directly to the County Clerk.** The fees (excluding the administrative fee) may be waived for projects that are found by the Department of Planning and Land Use and the California Department of Fish and Game to have a no effect impact on fish and wildlife resources. Failure to remit the required fee in full within the time specified above will result in County notification to the State that a fee was required but not paid, and could result in State imposed penalties and recovery under the provisions of the Revenue and Taxation Code. In addition, Section 21089(b) of the Public Resources Code, and Section 711.4(c) of the Fish and Game Code, provide that no project shall be operative, vested, or final until the required filing fee is paid.

JUDICIAL REVIEW TIME LIMITATIONS: The time within which judicial review of this decision must be sought is governed by Code of Civil Procedure Section 1094.6, which has been made applicable in the County of San Diego by San Diego County Code Section 11.120. Any petition or other paper seeking judicial review must be filed in the appropriate court not later than the 90th day following the date on which this decision becomes final; however, if within 10 days after the decision becomes final a request for the record of the proceedings is filed and the required deposit in an amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time

within which such petition may be filed in court is extended to not later than the 30th day following the date on which the record is either personally delivered or mailed to the party, or the party's attorney of record. A written request for the preparation of the record of the proceedings shall be filed with the Director, Department of Planning and Land Use, 5201 Ruffin Road, Suite B, San Diego, California 92123.

The foregoing decision was approved by the Director of Planning and Land Use on _____. A copy of this decision, and the documentation supporting the decision, is on file in the Department of Planning and Land Use offices at 5201 Ruffin Road, Suite B, San Diego, California.

DEPARTMENT OF PLANNING AND LAND USE
ERIC GIBSON, DIRECTOR

BY:

RICH GRUNOW, CHIEF
Project Planning Division

EG:RG:ml

Attachments

Habitat Loss Exhibit
USGS Map

Biological Technical Report, See DEIR Technical Appendix B, Volume I, HDR,
August, 2010

cc: To be provided at issuance of Habitat Loss Permit

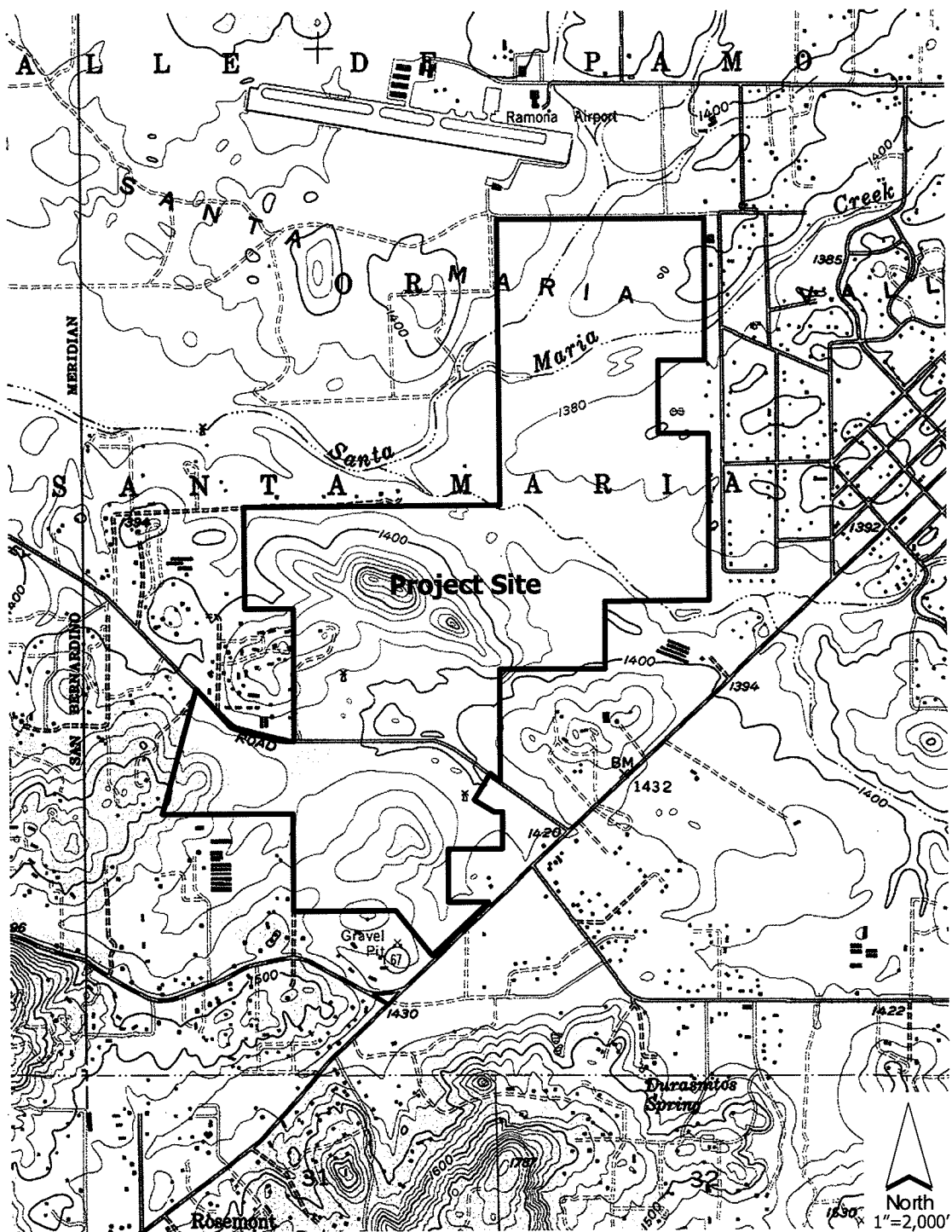
HABITAT LOSS EXHIBIT

LEGEND

- 1. Wetland (Shaded Area)
- 2. Wetland (Hatched Area)
- 3. Wetland (Stippled Area)
- 4. Wetland (Dotted Area)
- 5. Wetland (Cross-hatched Area)
- 6. Wetland (Diagonal Lines)
- 7. Wetland (Horizontal Lines)
- 8. Wetland (Vertical Lines)
- 9. Wetland (Wavy Lines)
- 10. Wetland (Solid Black Area)
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HABITAT LOSS



Cumming Ranch
USGS Map
San Pasqual Quad